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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 130212129-3474-02]

RIN 0648-XC715

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;  
Reef Fish Fishery of the Gulf of Mexico; Adjusted Closure of the  
2013 Gulf of Mexico Recreational Sector for Red Snapper

AGENCY: National Marine Fisheries Service (NMFS), National  
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces an adjusted closure of the recreational sector for red snapper in the exclusive economic zone (EEZ) of the Gulf of Mexico (Gulf) for the 2013 fishing season through this temporary rule. On May 31, 2013, the U.S. District Court for the southern district of Texas, Brownsville Division, set aside a March 25, 2013, emergency rule that gave the NMFS Regional Administrator the authority to close the recreational sector for red snapper in the EEZ off individual Gulf states. Therefore, NMFS adjusts the closure of the recreational sector for red snapper by closing the entire Gulf EEZ on June 29, 2013, instead of closing the EEZ on different days off individual Gulf

states. This Gulf-wide EEZ closure is based on the Court decision and is necessary to prevent the recreational sector from exceeding its quota for the fishing year and prevent overfishing of the Gulf red snapper resource.

DATES: The closure is effective 12:01 a.m., local time, June 29, 2013, until 12:01 a.m., local time, January 1, 2014.

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SUPPLEMENTARY INFORMATION: The Gulf reef fish fishery, which includes red snapper, is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

#### Background

On March 25, 2013, NMFS implemented an emergency rule to authorize the NMFS Regional Administrator to set the closure date of the red snapper recreational fishing season in the exclusive economic zone (EEZ) off individual states (78 FR 17882). This was intended to compensate for the additional harvest of red snapper by the recreational sector during less restrictive state-water seasons off certain states. On May 31,

2013, the U.S. District Court for the southern district of Texas, Brownsville Division, set aside this emergency rule. Therefore, the closure of the recreational sector for red snapper for the 2013 fishing year is adjusted so that the Federal recreational red snapper season is consistent across all Gulf states. Taking into account the catches expected later in 2013 during the extended state-water seasons off Texas, Louisiana, and Florida, and the increased quota published in a final rule on May 29, 2013 (78 FR 32179), NMFS projects the recreational red snapper quota of 4.145 million lb (1.880 million kg), round weight (50 CFR 622.39(a)(2)(i)), to be harvested in 28 days. Therefore, NMFS closes the recreational sector for red snapper in the entire Gulf EEZ at 12:01 a.m., local time, June 29, 2013. The closure dates off individual Gulf states that published in the final rule on May 29, 2013 (78 FR 32179) are therefore no longer in effect.

During the Gulf-wide EEZ closure, the bag and possession limit for red snapper in or from the Gulf EEZ is zero. In addition, a person aboard a vessel for which a Federal charter vessel/headboat permit for Gulf reef fish has been issued must also abide by these closure provisions in state waters. NMFS has determined this action is necessary to prevent the recreational sector for red snapper from exceeding its quota for

the fishing year.

#### Classification

The Regional Administrator, Southeast Region, NMFS, (RA) has determined this temporary rule is necessary for the conservation and management of Gulf red snapper and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.39(a)(2)(i) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule. Such procedures are unnecessary because the rule implementing the recreational red snapper quota and the rule implementing the requirement to close the recreational sector when the quota is reached or projected to be reached have already been subject to notice and comment, and NMFS must now notify the public of the adjusted closure. Such procedures are contrary to the public interest because the recreational fishing season opened 1 day after the Court set aside the emergency rule authorizing state specific EEZ

closures, and the quota is projected to be reached quickly. Providing prior notice and opportunity for public comment on this action would also be contrary to the public interest because many of those affected by the length of the recreational fishing season, particularly charter vessel and headboat operations, book trips for clients in advance and, therefore need as much time as possible to adjust business plans to account for the adjusted recreational fishing season.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 et seq.

Dated: June 5, 2013

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Kara Meckley,  
Acting Deputy Director,  
Office of Sustainable Fisheries,  
National Marine Fisheries Service.

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